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SUBJECT: PROPERTY RESTITUTION IN THE CZECH REPUBLIC

REF: STATE 62772

¶1. (SBU) Summary: The United States has an interest in three broad categories of property restitution in the Czech Republic: U.S. citizen, religious communal (including Jewish communal) and Jewish private property. The restitution process started in the early 1990s, yet some restitution issues remain. While most of the private property claims have been resolved, the economic development of many municipalities continues to be affected by the unresolved religious claims belonging predominantly to the Catholic Church. The claims of the Jewish communities have been mostly settled. Deadlines established by the Czech Government for private property restitution have expired, with the exception of Jewish looted art. It remains to be seen if Parliament will revisit the topic after elections on October 9-10, 2009. End Summary.

Private Property

¶2. (U) The Czech Republic enacted laws to allow for restitution of property shortly after the 1989 fall of the Communist regime. In 1991, two major laws were adopted which covered private real estate, movable property and farmland (Act 87/1991 and 229/1991). These initial laws covered confiscations during the Communist regime from 1948-1989. However, they did not allow for restitution of property confiscated by the Nazi regime during World War II. A 1994 amendment (Act 116/1994) provided for the restitution of real estate taken from Holocaust victims between 1938 and 1945. Beginning in November 1998, a national commission headed by then Deputy Prime Minister Rychetsky reviewed property restitution claims arising from the Holocaust. As a result, in June 2000, the Czech Parliament passed a law that provided for the restitution of farmland and works of art in state museums to Holocaust victims and their heirs (Act 212/2000). The law provided for the return of 7,500 works of art identified in Czech government museums and galleries as belonging to Holocaust victims before the war. In 2001, the Rychetsky Commission also helped to establish a Holocaust fund with approximately USD 15 million in state money (Endowment Fund for Holocaust Victims). A third of the fund was used between 2001 and 2005 to provide symbolic compensation to non-citizens and others previously unable to regain real property seized by the Nazis. The money was divided among approximately 500 claimants residing in 27 countries.

¶3. (SBU) While the deadline for filing claims for farmland according to Act 212/2000 expired in 2001, the deadline for artwork was first extended from 2002 to 2006 and later extended indefinitely. Deadlines for claiming real estate stipulated in the 1991 and 1994 legislation expired in 1992 and 1995 respectively. According to Czech officials, 97 percent of all private real property claims have been resolved. The 1994 amendment which covered the real estate confiscated from Holocaust victims allowed for about 7,000 pieces of real estate to be returned, according to an unofficial estimate by the Ministry of Finance. According to government officials and real-estate experts, the property market is not affected by unresolved private property claims. However, it should be noted

that the restitution process was very lengthy as the claims often had to be substantiated in court. These court cases often dragged out for several years, or even a decade.

The Special Cases of Works of Art

¶4. (SBU) The restitution of works of arts of Holocaust victims and their heirs remains the only ongoing restitution process. However, physical restitution of artwork remains difficult. In several cases the Czech authorities have identified certain pieces (usually among the most valuable in a collection) as works of "national cultural heritage" which prevents them from being exported abroad. These national heritage laws are similar to those in place in other European countries (notably France). In these cases, the state has restricted export or offered to pay compensation in exchange for retaining the works, but some believe that the art would fetch a much higher price outside of the country. A further complication stems from the fact that the law permits only restitution in direct lineage, e.g. to spouses or children, as opposed to a broader definition used in the 1991 and 1994 restitution laws concerning real estate. Currently, the direct lineage requirement is being challenged in the courts by Michael Klepetar, who is claiming 43 paintings which belonged to his great uncle who died with his wife and only daughter in the Lodz ghetto in 1941.

Czech Citizenship Requirement

¶5. (SBU) With the exception of art restitution, the restitution of, or compensation for, private property was restricted to those who could claim Czech citizenship. This citizenship restriction unfairly impacted Czechs who obtained citizenship in the U.S., as

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these naturalized citizens were required to forfeit their former Czechoslovak citizenship under the terms of a 1928 treaty between the two countries. The treaty was finally abrogated August 1997, by which time the 1992 and 1995 deadlines for filing real property claims had already passed. It enabled, however, Holocaust survivors and their heirs living in the U.S. to claim land according to the 2000 law.

¶6. (SBU) A provision of the 1928 treaty suspending its application during time of war, combined with the fact that Czechoslovakia did not sign a peace treaty with Japan until 1957, allowed some Czech-Americans who naturalized before 1957 to reclaim Czech citizenship and file timely claims. However, this provision did not apply to their U.S. citizen descendants or protect those who emigrated later. In a positive step, Parliament passed an amendment to the citizenship law that authorized dual citizenship in August 1999. Deadlines for filing real property claims had long since passed and efforts to reopen the period for filing restitution claims have failed due to the reluctance of many Czech legislators to revisit this issue. The former Deputy Prime Minister and current chairman of the Constitutional Court, Pavel Rychetsky, stated that most of the real property concerned has already been restituted to the U.S. nationals' relatives who retained Czech citizenship. According to him, reopening the issue would only lead to court cases within families.

¶7. (U) The U.N. Human Rights Committee held in 1995 and again in 2001 that the Czech citizenship restriction, as formulated, violates the International Covenant on Civil and Political Rights. However, the Czech Constitutional Court in 1997 and the European Court of Human Rights in July 2002 both held that the Czech citizenship requirement was not inconsistent with Czech human rights obligations.

Jewish Communal Property

¶8. (SBU) On the whole, the Czech Government has dealt positively with the return of Jewish communal property. The process of

restitution of Jewish property began in 1992. The Federation of Jewish Communities (FZO) put together dossiers covering about 800 properties including synagogues, schools, cemeteries, and other communal buildings. The list was pared down to 202 parcels because the FZO supported the continued use by some current occupants (including Christian denominations) and concentrated on its highest priority properties. While the national government has agreed by decree to restore all property in state hands, many municipalities have refused to follow suit. In 1994, the national government returned the Jewish Museum in Prague to the FZO.

¶9. (SBU) As mentioned earlier, the national commission headed by Deputy Prime Minister Rychetsky reviewed property restitution claims arising from the Holocaust. Following the commission's recommendations in June 2000, the Parliament enacted legislation that authorized the government to transfer approximately 200 additional properties to the Jewish community. It also provided for the return of 70 works of art housed in the National Gallery to the Jewish Museum. The Endowment Fund for Holocaust victims was established with state money one year later. While one-third was spent on private property compensation by 2005, the rest is dedicated to the restoration of Jewish sacred sites and to Jewish community life in the Czech Republic.

Other Religious Communal Property

¶10. (SBU) The larger issue of the restitution of church properties, however, has yet to be resolved. Certain property of religious orders, including 175 monasteries and other institutions, was restituted under laws passed in 1990 (Act 298/1990), but this generally did not include income-generating properties. The Catholic Church seeks the return of some 700 buildings and 175,000 hectares of forests and farmland. Claims by Protestant denominations are much smaller. The disputed farmland is affected by a provision of the 1991 law on restitution of land (Act 229/1991, Article 29) which stipulates that: "property belonging originally to churches, religious orders and congregations cannot be transferred to the possession of other persons until a special law on this property is adopted." This has an immense impact on the real estate market in many small towns and villages. In effect, it inhibits their development, as the land is frequently located inside their boundaries. No one can build on it, cultivate it, etc., even if they have the church's permission. This legal restriction on former religious property also affects many historical buildings located in the municipalities. Because municipalities in effect do not have the legal title, they are unable to obtain reconstruction grants from European structural fund or even cover the reconstruction costs from their own budgets. Instead, the municipalities can only watch the gradual decay of historical buildings that could otherwise

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attract tourists and enhance the municipality's quality of life.

¶11. (SBU) After many years of Czech administrations avoiding the issue, the Topolanek coalition government made church restitution one of its priorities when it won Parliamentary confirmation in January 2007. The government prepared and approved necessary legislation in April 2008 and submitted it to the Parliament for approval. However, due to severe political infighting in the Chamber of Deputies, the bill had not been approved before the fall of the Topolanek government in March 2009. The interim caretaker government of PM Jan Fischer, which will be in place until the October 9-10 early parliamentary elections, stated it would not seek to address the issue. Thus, the whole process will have to start anew.

¶12. (SBU) Comment: The future of church restitution is unclear. Resolution of the issue depends on the results of the upcoming elections, which are impossible to predict. It can be said with some certainty that a left wing minority government with the Social Democrats (CSSD) and tacit support of Communists would not be good news for champions of restitution. The Communists have always believed in the supremacy of collective ownership and have never supported any restitution legislation in the past twenty years. How other possible electoral outcomes, such as a grand Civic Democratic

(ODS)-CSSD coalition, might affect restitution issues is less clear.
Many Social Democrats and even some members of the center-right
(ODS) do not believe in the importance or necessity of church
restitution. End Comment.

Thompson-Jones